

# **TollFreeNumbers.com**

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Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TW-A325  
Washington, DC 20554

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## **Re: Exparte comments regarding FCC Report and Order dated 9/26/2018 WC Docket No. 17-192, CC Docket No. 95-155**

Dear Ms. Dortch,

Please accept and post the following exparte comments regarding FCC Report and Order dated 9/26/2018.

### **The role of the Resp Orgs is Changing**

The recent FCC Report and Order mandates more changes than just the auction it was focused on. These changes are arguably even bigger than simply allowing end users to bid on or purchase numbers and transfer numbers. Sure, the ability to pay (whatever the amount) for and transfer toll free numbers does change things, but it doesn't really change the role of the Responsible Organizations per say. However, the way the FCC order proposes to implement the auction does suggest two additional very major changes in the role of Resp Orgs may be necessary or at least coming in the near future.

That doesn't mean these changes are necessarily bad. They may bring new opportunities for entities that work with these changes and create a name for themselves in this changing marketplace. But as often happens, especially in government regulations, the unintended consequences of even the best intentions often create bigger waves than the original issue they set out to address. My only goal in pointing out the changes I see implied in the 9/27/18 FCC Report and Order is to initiate a discussion that can lead to the best system possible.

### **The Number Acquisition Process**

It sounds harmless to let the customers go directly to Somos to place bids. It has a good side, in that phone companies aren't forced to either spend thousands of dollars to create a whole new bidding system to allow customers to submit bids for this relatively small group of numbers, or to refer customers to either a competitor or third party to acquire the number.

The downside is that once we open that door, it's going to be hard to close it and it's hard to compete with your supplier. Somos is going to take the expense of setting up a bidding process and everything related to issuing the numbers from the proceeds of the numbers. So, it's not costing them anything and they're certainly not going to charge the end users any additional fee for this service. That makes it hard for any respop to invest thousands of dollars to create a system to accept requests because if they charge a fee of any significance, the customer is going to say why should I get it from you, when I can go to Somos and get it for with no fee at all.

Not only can Resp Orgs not charge any significant fee, but they also can't secure the funds of a bidder up front, because Somos won't. If a bidder wins three numbers from Somos, and only wants one of the winning numbers, Somos can just offer the unpaid numbers to the second highest bidder for roughly the same amount. Whereas, in

the same scenario if the bids were placed through a resorg, the resorg is going to be on the hook for all three numbers, even though they only got paid for one, not to mention the cost of billing and servicing which Somos is going to take out of the proceeds or pass on to the Resp Orgs, but the Resp Orgs will end up having to eat.

Therefore, with no upside revenue possible, no resorg is going to invest time and resources to do something that could end up costing them money. They're simply all going to just refer customers to Somos. And then when 822 numbers are released, if their reps were told to send customers to Somos, and customers have gone to Somos for their 833 number, they're going to by default just expect to be able to go to Somos again. And voila, the role of Number Acquisition has suddenly moved from the Resorg to... Somos! That means that instead of the representatives of every phone company addressing customer needs during the rush of a new code opening, you have only the representatives of ONE company trying to meet every potential customer's needs in the whole industry on top of maintaining the underlying database.

## **Centralized Customer Information**

Somos has never worked directly with end users. In their previous FCC filings dated June 20, 2016, Somos said it didn't have the capability to receive even basic, static, one time, end user information with toll free number requests which I suggested.

*At this time, Somos does not have the capability to capture the amount of end user customer data that would be required to effectively monitor whether or not a particular TFN has an end user attached to it.*

Somos has never received ANY end user information before from Resp Orgs but this new order essentially requires it, not even just for the customers that go directly to them, but for the bids placed by Resp Orgs too. Even more than that, they don't just have to receive end user information at the time of the bid, they have to *maintain this information* and have a way to update it when that number is transferred. They essentially have to create a toll free registry for these 17K numbers maintaining the official end user of record. This changes and adds steps to the transfer process for those numbers and takes the role of maintaining the end user information from the Resorg and turns that over to Somos.

Suddenly, Somos isn't just managing the toll free database any more, they're running the industry. And once it has a registry system in place, how long do you think it's going to be before Somos or the FCC is going to say since we have set up a system that works well for these 833 numbers, why do we need two different processes? Let's just expand this central registry either for all 56 million numbers, or at least to the new ones being released.

Maybe these changes are good and will have some additional unforeseen benefits as well. I have repeatedly argued for requiring Resp Orgs to provide end user information because I thought it would prevent hoarding and brokering during code openings, and the Misdial Marketing that's choking the industry, if the system was transparent. Unfortunately, they're also talking about eliminating the regulations protecting the system from abuse at the same time, so it may end up making it visible at the same time they stop caring about the abuse.

I'm 110% for a free and open market and fight more for the end users in this industry more than anyone. I see the benefit of making all the numbers locked away, more available to businesses that want and need them. I just worry that turning over two of the main functions of Resp Orgs to a centralized system is going to decrease the efficiency and competitiveness in more ways than the FCC or anyone might have realized.

I have to add one more important point, that Somos did NOT request these changes, and has consistently taken no position on conducting an auction and has argued against allowing customers to place bids directly stating quite strongly that Auction participation should be limited to Resp Orgs in their 11/13/17 Comments on NPRM.

*B. Auction Participation Should Be Limited to Resp Orgs To the extent the Commission implements an auction-based assignment mechanism, Somos supports the Commission's further proposal to limit participation in any auction to Resp Orgs, as defined in 47 C.F.R. § 52.101(b).8 Resp Orgs are the only*

*entities that possess both the expertise and the functional capabilities needed to effectively participate in a market-wide auction proceeding. They are essential partners who bring stability to the toll-free numbering process by ensuring that TFNs are assigned, routed, and managed accurately and in accordance with the Commission's rules. Further, as the Notice suggests,<sup>9</sup> Resp Orgs have a system-wide perspective that would allow them to make markets in an auction and guide subscribers to bidding strategies that maximize value for the system as a whole.*

*Somos does not support direct subscriber participation in any TFN auction because it would introduce unnecessary and potentially costly administrative problems. Somos believes that any TFN auction mechanism should build on the functionalities of the SMS/800 database and be implemented consistent with the technical and procedural characteristics of that database. To achieve those efficiencies, Somos believes that it makes sense to limit auction participation to the Resp Orgs that are currently certified to have access to the SMS/800 database.<sup>10</sup> Having access to the SMS/800 database requires Resp Orgs to take on defined obligations that ensure that the integrity of the database is maintained and that TFNs operate correctly,<sup>11</sup> including becoming certified in the complex process of routing TFNs.<sup>12</sup> Allowing subscriber participation in TFN auctions would undermine this delegation of responsibility to Resp Orgs and would require either constructing an auction mechanism outside of the existing SMS/800 database or qualifying a large number of new entities to access and use that database. Either of these options would be burdensome and complicated, thus impeding an effective and efficient auction.*


## **None of these changes is necessary to Auction the 833 Numbers**

I'd also like to point out that neither of these changes to the role of Resp Orgs are necessary to conduct the proposed 833 Auction. It's not necessary to allow customers to go directly to Somos, to have the proposed auction. Comparisons are often made with the domain name industry and I just can't see the system working better if ICANN allowed customers to register domain names directly, bypassing the registrars.

Nor is it necessary change the regulations against hoarding and brokering, or to make a way to allow customers to transfer these 833 numbers after they are auctioned, in order to auction them. The only ones that would benefit from making a way to transfer numbers after they are auctioned are brokers which I don't think we should be encouraging to purchase these limited 833 numbers. Changing the role of Resp Orgs, changing the transfer process and requiring Somos to maintain the official end user information, is a lot of work to benefit only a handful of brokers and resellers that might or might not want to speculate on numbers. The end users I dealt with and I think the FCC is trying to help here want to get and use these numbers to promote their business, not to get them just to resell them. I may be wrong, but I don't think they made a way for winners of spectrum auctions, to resell their spectrum license after they won it, and that certainly isn't necessary to do an 833 auction.

I see, perhaps better than anyone, the potential benefit to the industry of having a secondary market, but I also worry about the adverse effects and want to start the discussion about how these things may change the very role of Somos and the Resp Orgs going forward too. I also believe the benefit of moving forward more quickly outweighs the additional time those additional requirements are going to add to this project when it's already been far too long with very little visible action from the customer's point of view.

Respectfully Submitted,

  
Bill Quimby  
President of TollFreeNumbers.com